IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1539 OF 2007

Shaikh Rashid Shaikh Karim ...Petitioner

Versus

Qureshi Mohd.Saeed Mohd. Umar & Ors. ...Respondents

Shri Anil Kumar Patil for the Petitioner.

CORAM : ABHAY S.OKA, J.
DATED : JUNE 05, 2007.

P.C.:

1. The Petitioner in this Petition under Article 227 of the Constitution of India is the original Defendant No.3. The Petitioner submitted a bid to the fourth Respondent-Corporation for obtaining contract of running a slaughter house. The contract was awarded to the Petitioner for the period commencing from 01st April, 2006 by accepting the highest bid of the Petitioner in the sum of Rs.07,90,000/-. After the said contract came into force, on 18th July, 2006, the Standing Committee of the fourth Respondent passed a resolution by which slaughter fees were enhanced. On 25th July, 2006 the Standing Committee approved earlier resolution with a modification that the contractor will collect the fees at enhanced rates from 01st August, 2006.

2. A suit was filed by the first to third

Respondents herein for challenging the said resolutions passed by the Municipal Corporation for increasing the slaughter fees. The first to third Respondents are butchers by occupation. Their contention is that the slaughter fee has been arbitrarily enhanced. In the said suit, an Application for temporary injunction was filed by the first to third Respondents which has been allowed by order dated 15th December, 2006. By the said order, the learned trial Judge restrained the Municipal Corporation and the Commissioner of the Municipal Corporation from acting upon the said resolutions and they were restrained from collecting fees from the first to third Respondents at a rate which was higher than the rate prevailing prior to passing of the impugned resolutions.

3. The Municipal Corporation did not prefer any Appeal against the said order. However, the present Petitioner preferred an Appeal before the District Court. By the impugned Judgment and Order, the Appeal has been dismissed.

4. The learned counsel appearing for the Petitioner invited my attention to a communication issued by the fourth Respondent-Corporation by which the Petitioner was informed that resolutions subject matter of

challenge in the suit have been stayed. The learned counsel pointed out that the Petitioner has filed a substantive Petition for challenging the said order of stay. He submitted that the Petitioner will suffer huge losses if he is not allowed to recover charges/fees at the enhanced rates provided in the resolutions. He submitted that the trial Court has committed an error by passing an order of injunction which has been erroneously confirmed by the Appeal Court.

5. I have considered the submissions. The rates of slaughter fees in slaughter house have been enhanced after the contract was awarded to the Petitioner. The bid offered by the Petitioner is obviously on the basis of the earlier rates which were prevailing at the time of execution of the contract.

6. Considering the aforesaid aspect, the learned trial Judge has granted injunction which has been confirmed by the Appellate Court. Considering the facts of the case, no case is made out for interference with the discretionary order of temporary injunction passed by the trial Court and confirmed by the Appellate Court. No case is made out for interference in a Petition under Article 227 of the Constitution of India. Writ Petition is rejected.

7. It is made clear that all contentions of the parties in the pending suit are expressly kept open and observations which are made in this order are only for a limited purposes of considering validity and legality of interim order passed by the trial Court.

8. The trial Court is directed to decide the suit as expeditiously as possible and preferably on or before 31st January, 2008.

JUDGE